

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RONALD JAMES BAKER  
DOC NO: DC-5930  
SCI DALLAS  
1000 FOLLIES ROAD  
DALLAS, PA. 18612,

Petitioner,

VS.

CASE NO:

3:13-cv-652  
FILED  
SCRANTON

MAR 12 2013

JEROME WALSH,  
SCI DALLAS SUPERINTENDANT,  
1000 FOLLIES ROAD  
DALLAS, PA. 18612,

PER Amo  
DEPUTY CLERK

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW: the Petitioner in the above styled cause and most respectfully moves this Honorable Court, pursuant to Title 28, U.S.C. §2241, to issue a writ of habeas corpus, ordering his release from imprisonment at the hands of the Respondent, and submits that:

JURISDICTION

1) This Honorable Court enjoys jurisdiction to entertain this writ on the basis of these facts: (a) Under Pennsylvania Habeas Corpus Rules, Title 42 Pa.C.S.A. §9545(b)(1)(i) & (ii), Petitioner is time barred from seeking collateral review of his sentence; (b) Likewise under the AEDPA since he was sentenced on August 08, 1997. No direct appeal, nor a PCRA or §2254 writ was taken; (c) The sentencing Court was without subject matter jurisdiction to sentence him to 20 years imprisonment for an Aggravated Assault by Vehicle while under DUI, (d) that conviction was obtained by fraud.

**PARTIES**

2) Petitioner is a 52 year old white male currently serving a technical parole violation at the SCI Dallas prison, located at 1000 Follies Road, Dallas, Pa. 18612. HIS prison number is DC-5930.

Jerome Walah, is the superintendant at the SCI Dallas facility and enjoys custody over the petitioner.

**STATEMENTS OF THE FACTS**

3) On September 29, 1996, while petitioner attempted to pass two cars on Liberty Corners Road in Bradford County, he was unable to avoid an oncomming car on its side of the road traveling towards him. Petitioner was traveling at a high rate of speed, struck the oncomming car. A horrible accident ensued.

The female driver of the oncomming car was seriously injured. Her 6-8 year old daughter was also seriously injured. An infant, thank God, was not harmed. The mother and daughter were transported to Towanda Memorial Hospital, under went several operations, and were in and out of the hospital for additional operations for months on end.

Petitioner was seriously injured. He incurred a broken hip in several places, required a hip replacement, plates in his broken legs and arms, a pierced liver, lower bowels, and other major injuries.

4) Upon entering the Towanda Memorial Hospital, at the request of his police escort, staff drew blood from petitioner for a blood alcohol test. Days later he was arrested at the hospital regarding charges related to the accident.

5) After two months petitioner was transferred to the SCI Mahanoy, hospital ward. Doctors advised him he would be bound to a wheel chair for the rest of his life.

Six months later he was transported to the Bradford County Courthouse to stand trial. At that time his attorney, the District Attorney, and Judge advised him that if he proceeded to trial and was convicted he faced 30-to-60 years imprisonment. If he took a plea bargain a 7½-to-25 year term of imprisonment. Petitioner then pled guilty and was sentenced as follows:

- a) Two years 6 months to 10 years; A consecutive term of two years 6 months to 10 years for violating 75 Pa. C.S.A. §3735.1;

AGGRAVATED ASSAULT BY VEHICLE WHILE DUI

- b) One year 6 months, consecutive to the sentence above, and a consecutive one year six months for violating 75 Pa. C.S.A. §3742.1.

ACCIDENT INVOLVING DEATH OR PERSONAL INJURY WHILE NOT PROPERLY LICENSED.

See Exhibit 1, DOC SENTENCE STATUS SUMMARY.

#### LEGAL ISSUES

6) Out lined below are jurisdictional issues that give rise to filing this habeas corpus action in federal court; and the basis for granting the writ.

- a) On January 15, 1996, the Commonwealth placed into effect 42 Pa. C.S.A. §9545(b) et seq., which set a jurisdictional one year time-bar for prisoners to seek habeas corpus relief. An untimely petition will not be entertained regardless of the issues raised therein:

See Com. v. Abu-jama, 833 A.2d 719, 723,24 (Pa. 2000)

- b) The one year time limit begins when the prisoner has exhausted his direct appeals, and if no appeal was taken one year after sentencing. or sixty days upon the discovery of new evidence with the exercise of due diligence.  
Com v. Hawkins, 953 A. 2d 1248 (2008)

- c) Under Pennsylvania jurisprudence, subject matter jurisdiction may never be waived, 42 Pa. Rules of Civil Procedure, Rule 1032, See Com. v. Little, 314 A.2d 270 (Pa. 1974), Musumecli v. Penns Landing Corp., 643 A. 2d 705 (Superior 1994).
- d) Likewise, an illegal sentence may never be waived Com. v. Foster, 17 A. 2d 332 (Pa. 2004).
- e) However, despite the fact of the non-waiver of the claims note if subparagraphs (c) and (d) above, which if asserted, constitute a miscarriage of justice, they must be filed within the jurisdictional time bar, Com. v. Fahy, 714 A.2d 214, 223 (Pa. 1999) Thus petitioner has no state court remedies.
- g) To proceed to a finding of guilt and subsequent sentence under a DUI offense, and sentenced meaning convicted Com. v. Johnson, 545 A. 2d 349 (Super 1988).
- f) Petitioner asserts that the sentencing Court was without subject matter jurisdiction to sentence him to two consecutive 10 year terms of imprisonment under 75 Pa 3735.1 Aggravated Assault By Vehicle while DUI.

This because, an essential element, of that offense is that First, he must be found guilty by a jury or in a non-jury trial, and sentenced, i.e. convicted of a DUI offense. offense.

" Any person who negligently causes serious bodily injury to another person as the result of violation of section 3731 (relating to driving under influence of alcohol or controlled substance) and who is convicted of violating section 3731 commits a felony of the second degree when the violation is cause of the injury." §3735.1

7) Since the record is perfectly clear, Petitioner was never found guilty of a DUI offense, nor convicted of a DUI offense which caused the underlying injuries to the occupants in the oncoming car Johnson, supra, the Court of Commonpleas in this cause was without subject matter jurisdiction to find him guilty of AGGRAVATED ASSAULT BY VEHICLE WHILE DUI, and sentence him to 20 years imprisonment.


8) Furthermore, that conviction was obtained by fraud as the facts in Statements (6), and (7) above make clear. Obviously the blood/alcohol tests by the Bradford Memorial Staff taken minutes after the accident were negative regarding a DUI offense. Petitioner was never privy to that test result.

Since the fraud was exposed to him by a Paralegal Prisoner during the second week of February 2013, who if requested will testify to that fact, this writ is timely Under § 2244, or 2241.

**REQUEST FOR RELIEF**

9) Petitioner most respectfully prays that this Honorable Court will issue an ORDER vacating his two 10 year consecutive terms of imprisonment under §3735.1, and all the fines, court costs and related monetary penalties so imposed.

Respectfully submitted

  
Ronald Baker DC 5930  
SCI Dallas  
1000 Follies Road  
Dallas, Pa. 18612

Sworn and subscribed under the penalty of perjury, 28 U.S.C. 1746. that all the Statements made in this complaint, are true to the best of his information and belief.

  
Ronald Baker DC 5930



# COMMONWEALTH OF PENNSYLVANIA

## DC16E - SENTENCE STATUS SUMMARY DEPARTMENT OF CORRECTIONS

Closed Version 9 Dated 12/7/2011 8:07:50 AM

## 1. REFERENCES AND IDENTIFICATION

DOC # DC5930	Commitment Name RONALD JAMES BAKER	PBPP # 9804V	SID # 14281282	FBI # 102999X7	Phila Photo #
DOB 01/23/1961	Place of Birth SAYRE PA USA			Race W	Sex M

## 2. SENTENCE SUMMARY

Sent Date	County/State/Federal	Indictments	Sent Type	Minimum			Maximum		
				Y	M	D	Y	M	D
08/18/1997	Bradford	CP716A/1996		2	6		10		
Plea:	Plead Guilty	OTN: E6909232	Judge: MOTT, JOHN C.						
Offense:	VC3735.1 - AGGRAVATED ASSAULT BY VEHICLE WHILE DUI								
08/18/1997	Bradford	CP716B/1996	CS	2	6		10		
Plea:	Plead Guilty	OTN: E6909232	Judge: MOTT, JOHN C.						
Offense:	VC3735.1 - AGGRAVATED ASSAULT BY VEHICLE WHILE DUI								
08/18/1997	Bradford	CP716D/1996	CS	1	3		2	6	
Plea:	Plead Guilty	OTN: E6909232	Judge: MOTT, JOHN C.						
Offense:	VC3742.1 - ACCIDENT INVOLVING DEATH OR PERSONAL INJURY WHILE NOT PROPERLY LICENSED								
08/18/1997	Bradford	CP716E/1996	CS	1	3		2	6	
Plea:	Plead Guilty	OTN: E6909232	Judge: MOTT, JOHN C.						
Offense:	VC3742.1 - ACCIDENT INVOLVING DEATH OR PERSONAL INJURY WHILE NOT PROPERLY LICENSED								

Reception Date	07/07/2011	Reentered from DOC #	GY2934
Controlling Minimum Date	04/15/2004	New Maximum - PV	08/17/2023
Controlling Maximum Date	10/15/2021	True Minimum Expiry Date	
RRRI Minimum Expiry Date			

## Summary or Remarks on Sentence

<b>Remarks</b>	Version 9 created ~ to recommit as a TPV per PBPP-39 dated 8/26/2011, new max 8/17/2023. Version 8 created to Recommit as TPV per PBPP-39 dated 4/16/2010. VERSION 7: RECEIVED AS A PVP 12/11/09. Version 6: Reported prior TCV recommitment per PBPP form 39; recommitment on all prior institution numbers but PBPP only recalculated predominate case under #DC5930. Version 5: Reported prior TPV recommit per PBPP39 dated 4-29-2008. Version 4: Created to reflect PVP status. Version 3: Reported previous TCV per PBPP-39 dated 3/17/06. Version 2: PVP. Version 1: Initial sentence summary.
----------------	---

EXHIBIT 1

W T BAKER  
5930  
E D  
LIES RD  
PA 18612

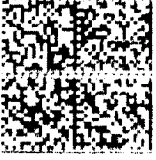
RECEIVED  
SCRANTON

MAR 12 2013

DEPUTY CLERK

INMATE MAIL

UNITED STATES POSTAGE



02 1P  
0006553756 MAR 07 2013  
\$ 01.32<sup>00</sup>  
MAILED FROM ZIP CODE 18512

CLERK OF COURTS  
US DISTRICT COURT  
PO. Box 1148  
SCRANTON PA 18501-1148